

<p>Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address</p> <p>ANDREW E. SMYTH,SBA 60030 SMYTH LAW OFFICE 5042 Wilshire Blvd #316 Los Angeles, CA 90036 Tel (323) 933-0406 Email :office@smythlo.com</p> <p><input type="checkbox"/> Debtor(s) appearing without an attorney <input checked="" type="checkbox"/> Attorney for: : Drita Kessler</p>		<p>FOR COURT USE ONLY</p>	
<p>UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - SAN FERNANDO VALLEY DIVISION <input type="checkbox"/></p>			
<p>In re:</p> <p>DRITA PASHA KESSLER</p>		<p>CASE NO.: 1:22-bk-11504-VK CHAPTER: 11 <input type="checkbox"/></p>	
		<p>NOTICE OF OPPORTUNITY TO REQUEST A HEARING ON MOTION</p> <p>[LBR 9013-1(o)]</p>	
<p>Debtor(s).</p>		<p>[No hearing unless requested in writing]</p>	

TO THE U.S. TRUSTEE AND ALL PARTIES ENTITLED TO NOTICE, PLEASE TAKE NOTICE THAT:

1. Movant(s) Drita Kessler, Andrew E. Smyth,
filed a motion or application (Motion) entitled Application for Employment of Professional Person for a Specific purpose.
2. Movant(s) is requesting that the court grant the Motion without a hearing as provided for in LBR 9013-1(o), unless a party in interest timely files and serves a written opposition to the Motion and requests a hearing.
3. The Motion is based upon the legal and factual grounds set forth in the Motion. (*Check appropriate box below*):
☒ The full Motion is attached to this notice; or
☐ The full Motion was filed with the court as docket entry # _____, and a detailed description of the relief sought is attached to this notice.
4. **DEADLINE FOR FILING AND SERVING OPPOSITION PAPERS AND REQUEST FOR A HEARING:** Pursuant to LBR 9013-1(o), any party who opposes the Motion may request a hearing on the Motion. The deadline to file and serve a written opposition and request for a hearing is 14 days after the date of service of this notice, plus 3 additional days if you were served by mail or pursuant to F.R.Civ.P. 5(b)(2)(D) or (F).

- a. If you timely file and serve a written opposition and request for a hearing, movant will file and serve a notice of hearing at least 14 days in advance of the hearing. [LBR 9013-1(o)(4)]
- b. If you fail to comply with this deadline:
- (1) Movant will file a declaration to indicate: (1) the Motion was properly served, (2) the response period elapsed, and (3) no party filed and served a written opposition and request for a hearing within 14 days after the date of service of the notice [LBR 9013-1(o)(3)];
 - (2) Movant will lodge an order that the court may use to grant the Motion; and
 - (3) The court may treat your failure as a waiver of your right to oppose the Motion and may grant the Motion without further hearing and notice. [LBR 9013-1(h)]

Respectfully submitted,



Signature of Movant or attorney for Movant

ANDREW E. SMYTH attorney for Drita Kessler

Printed name of Movant or attorney for Movant

Date: 11/20/2023

Andrew E. Smyth, Esq. Bar No. 60030
SMYTH LAW OFFICE
5042 Wilshire Blvd., #316
Los Angeles, CA 90036
Tel: (323) 933-0406
Email:office@smythlo.com
Attorney for Drita P. Kessler

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA – SAN FERNANDO VALLEY DIVISION

In re:

DRITA PASHA KESSLER

Debtor(s).

CHAPTER 11
BK. 1:22-bk-11504-VK

**APPLICATION FOR EMPLOYMENT OF
PROFESSIONAL PERSON FOR A
SPECIFIC PURPOSE**

**APPLICATION FOR EMPLOYMENT OF PROFESSIONAL PERSON FOR A
SPECIFIC PURPOSE**

COMES NOW, the undersigned counsel, and respectfully submits the instant application for employment of professional persons pursuant to 11 U.S.C. §327 and Rule 2014 of the Bankruptcy Rules of Procedure and in support of said application states as follows:
The debtor(s) desires to retain of the firm of SMYTH LAW OFFICE Los Angeles, Los Angeles County, California for the specific purpose of:

A). Appealing this Court's ruling of August 17, 2023 sustaining the Trustee's objection to Debtor's claim of a homestead exemption in Bankruptcy Case no. 1:22-bk-11504-VK

1 B). Appealing the District Court's denial on November 7, 2023 of Debtor's motion to set
2 aside the judgment in District Court Case Travelers v. Kessler 2:18-cv-00722 AB (JPRx). This
3 includes requesting mediation at the Ninth Circuit and representing Debtor DRITA Kessler at
4 mediation.

5 C). Attorney Andrew E. Smyth and Smyth Law Office has also been retained by Drita
6 Kessler to obtain Relief From Stay from this Court to allow her to pursue an action in the United
7 States District Court for The Central District of California ordering that the Amended Judgment
8 on Traveler's Third Party Complaint in Travelers v. Kessler 2:18-cv-00722 AB (JPRx) is void
9 and of no effect for the reason that said judgment was obtained against a defaulted defendant
10 who was/is therefore a "non party" and not permitted to fully participate in the case and so
violates due process.

11 I, Andrew E SMYTH, am duly licensed to practice law in the State of California, and also
12 licensed to practice in the Ninth Circuit and before this Court.

13 I was initially employed by the debtor to represent her in the above matters and am familiar
14 with the facts of this case.

15 I do not represent or hold any interest adverse to the debtor or to the estate with respect to
16 the matters on which I seek to be employed.

17 Attached and submitted hereto is a declaration executed by myself, Andrew E SMYTH, in
18 support of this application pursuant to 11 U.S.C. §327 and Rule 2014 of The Bankruptcy Rules
19 of Procedure. I have no connections with the debtor, creditors, any parties in interest, the
20 Bankruptcy Administrator, or the Trustee, other than with the representation of the debtor upon
granting of this application.

21 The debtor has signed a contract with Andrew E. Smyth for representation regarding the
22 Matter above. The terms of the contract include a flat fee of \$15,000 for all representation
23 described above. This amount will be applied at the rate of \$450.00 an hour plus reimbursement
24 of out-of-pocket expenses. No additional fees will be charged. Any unused fees will be refunded.

25 I have received a \$15,000.00 retainer fee prior to the filing of this Application. I had
26 misread the statute about applying to be employed and felt it did not apply if my compensation
27 was paid by a third party and was not a loan to the Debtor (See attached Declarations re source
28 of retainer fees) and if I was not seeking to be the attorney for a party in a non-bankruptcy matter
or for a debtor not in her role as "Debtor in Possession". I know, after the hearing on November

1 16, 2023, and having been informed by the Court that I was mistaken and that I must apply to be
2 employed. I apologize for my misunderstanding and for this late application. I understand that I
3 cannot share any compensation with attorneys other than members of my firm unless said
4 professionals are also approved by this Court. I do not have any agreement to share
5 compensation with other attorneys.

6 WHEREFORE, the above premises considered, I move this Honorable Court to authorize
7 the employment of *Andrew E SMYTH* to represent Debtor DRITA KESSLER as the Appellant in
8 the Appeals filed in case numbers 1:22-bk-11509-VK as the Appellant and in Case No. 1:18-CV-
9 0722-AB(JPRX) Upon settlement or completion of the cause of action Andrew E SMYTH will
10 not request additional fees beyond the \$15,000 already received but will apply to the Court for
11 approval of fees and for extra costs and expenses pursuant to 11 U.S.C. §326, 327, 328 and Rules
12 2014 and 2016 of The Bankruptcy Rules of Procedure if requested to do so by the Court.

12 Respectfully submitted this 20th day of November , 2023.

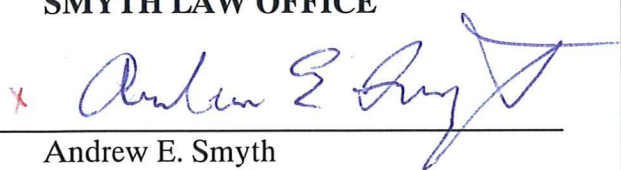
13 Name of Attorney being retained:

14 Andrew E. Smyth Bar No. 60030
15 SMYTH LAW OFFICE
16 5042 Wilshire Blvd. No. 316
17 Los Angeles, CA 90036
18 Phone no. 323 933-0406
19 Email: office@smythlo.com

18 Respectfully submitted,

20 **SMYTH LAW OFFICE**

22 Dated: November 20, 2023

21 
23 _____
24 Andrew E. Smyth
25 Attorney for Drita Kessler
26
27
28

**DECLARATION OF ANDREW E. SMYTH IN SUPPORT OF DEBTOR'S
APPLICATION TO EMPLOY A PROFESSIONAL PERSON FOR A SPECIAL
PURPOSE.**

I declare the following to be true under penalty of perjury:

1). My name is *Andrew E. Smyth*, I am presently affiliated with SMYTH LAW OFFICE whose office is located at 5042 Wilshire Blvd., #315, Los Angeles California, 90036. I am an attorney duly admitted to the practice of law in the State of California. I was engaged by the debtor to represent her regarding:

A). Appealing this Court's ruling of November 7, 2023, sustaining the Trustee's objection to Debtor's claim of a homestead exemption in Bankruptcy Case No, 1:22-bk-11504-VK.

B). Appealing the District Court's denial of Debtor's motion to set aside the judgment in District Court Case Travelers v. Kessler 2:18-cv-00722 AB (JPRx). This includes requesting mediation at the Ninth Circuit and representing Debtor DRITA Kessler at such mediation.

C). I have also been retained by Drita Kessler to obtain Relief From Stay from this Court to allow me to pursue an action in the United States District Court for The Central District of California ordering that the Amended Judgment on Traveler's Third Party Complaint in Travelers v. Kessler 2:18-cv-00722 AB (JPRx) is void and of no effect for the reason that said judgment was obtained against a defaulted defendant who was/is therefore a "non party" and not permitted to fully participate in the case and so violates due process

2). I, Andrew E SMYTH, am duly licensed to practice law in the State of California, and also licensed to practice law in the Ninth Circuit and before this Court.

3). I Andrew E SMYTH was initially employed by the debtor to represent her and am familiar with the facts and legal issues involved in the case.

4). I Andrew E SMYTH do not represent or hold any interest adverse to the debtor or to the estate with respect to the matter on which such attorney is to be employed.

5). This Declaration is executed by myself, Andrew E SMYTH, in support of this application pursuant to 11 U.S.C. §327 and Rule 2014 of The Bankruptcy Rules of Procedure. I, Andrew E SMYTH, have no connections with the debtor, creditors, any parties in interest, the Bankruptcy Administrator, or the Trustee, other than with the representation of the debtor upon granting of this application.

1 6). The debtor has signed a contract with me for representation regarding the cause of action.

2 The terms of the contract include a flat fee of \$15,000 for all representation described above.

3 This amount will be applied at the rate of \$450.00 an hour plus reimbursement of out-of-pocket
4 expenses. No additional fees will be charged. Any unused fees will be refunded.

5 7). I have received a \$15,000.00 retainer fee prior to the filing of this Application. I had misread
6 the statute about applying to be employed and felt it did not apply if my compensation was paid
7 by a third party and was not a loan to the Debtor (See below) and if I was not seeking to be the
8 attorney for a party in a non-bankruptcy matter or for a debtor not in her role as "Debtor in
Possession".

9 8). I know, after the hearing on November 16, 2023, and having been informed by the Court,
10 that I was mistaken and that I must apply to be employed. I apologize for this late application. I
11 understand that I cannot share any compensation with attorneys other than members of my firm
12 unless said professionals are also approved by this Court. I do not have any agreement to share
13 compensation with other attorneys.

14 9). The source of the \$15,000 (Fifteen thousand dollar) retainer I have received is from a
15 longtime friend of DRITA KESSLER, Marck Sarafati. See copy of a text message which I have
16 received from Marck Sarafati, See Ex A. I have also talked to Mr. Sarafati on the phone and
17 confirmed that this money was a gift and that Mr. Sarafati's financial status supports his
18 statement that this was a gift, and that no repayment is sought. Mr. Sarafati owns valuable real
19 property in Los Angeles County. Mr. Sarafati's phone number is (310) 663-0295. Mr. Sarafati's
email address is marcksarafati@gmail.com

20 10). I do not represent or hold any interest adverse to the debtor or the estate with respect to the
21 matter upon which I am seeking to be employed.

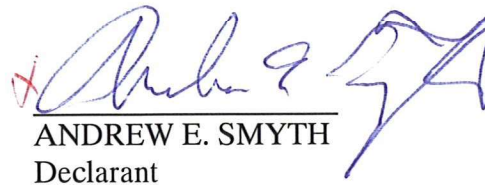
22 11). I have no connection with the Trustee, creditors, Bankruptcy Administrator, or any other
23 parties in interest, the debtor, or their respective attorneys, other than with the representation of
24 the debtor in the legal matters for which I am applying to be employed as a professional person
25 for these specific purposes.

26 12). The facts as stated herein are true and correct in all cases where I have personal knowledge
27 and other remaining facts and opinions are true and correct according to the best of my
28 knowledge, information and belief. I understand that upon completion of this case, by settlement
or otherwise, I must make a separate application for the approval of any settlements or fees

1 recovered on behalf of the debtor and/or the estate pursuant to LBR 9007-1. I also understand
2 that I must make a separate application for the approval of my fees and expenses pursuant to 11
3 U.S.C. §326, 327, 328 and Rules 2014 and 2016 of The Bankruptcy Rules of Procedure.

4 13). I declare under penalty of perjury under the laws of the State of California and the United
5 States of America that the foregoing is true and correct and if called upon to testify I could and
6 would competently testify thereto.

7 Executed this 20th day of November 2023, at Los Angeles, CA 90036

8 
9 ANDREW E. SMYTH
10 Declarant

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT "A"

EXHIBIT A

Sarafati

Inbox

Search for all messages with label Inbox

Remove label Inbox from this conversation



Andrew Smyth <andrew@smythlo.com>

3:33 PM
(22
minutes
ago)

to me, Andrew

To Whom It May concern:

I have known Ms Drita Kessler for over 32 Years. We were neighbors when we both lived on Roscomare Rd in Bel Air while she was married to Kenneth Kessler and we went out to dinner as couples with my ex-wife Rita. Upon my divorce in 1995 I purchased my own home on Chalon Rd in Bel Air and continued my friendship with Mr and Ms Kessler.

After Ms. Kessler got divorced we both remained friends and occasionally spent time with Myself and my life partner.. I had seen Ms. Kessler a few times recently and was sorry to hear about her current problems.

Upon hearing she was in need of some funds I agreed to help her and sent the funds she needed to her attorney on my own to help her.

These funds were sent for no other reason then to help her with her current case.

I do not expect to be repaid nor have I asked for any repayment whatsoever!

Should anyone have any questions I can be reached at (310)663-0295)

Thank-you,
Marck Sarfati

Sent from my iPhone

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
5042 Wilshire Blvd #316 Los Angeles, CA 90036

A true and correct copy of the foregoing document entitled: **NOTICE OF OPPORTUNITY TO REQUEST A HEARING ON MOTION [LBR 9013-1(o)]** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)**: Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (date) 11/20/2023, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

2. **SERVED BY UNITED STATES MAIL**:

On (date) 11/20/2023, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☒ Service information continued on attached page

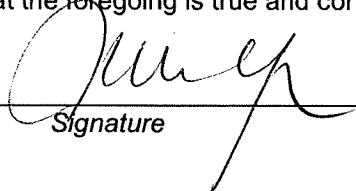
3. **SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

11/20/2023
Date

Michelle Yi
Printed Name


Signature

CONTINUED----

1.TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):

- **Michael Jay Berger** michael.berger@bankruptcypower.com, yathida.nipha@bankruptcypower.com;michael.berger@ecf.inforuptcy.com
- **Shraddha Bharatia** notices@becket-lee.com
- **Andre Boniadi** aboniadi@bzlegal.com
- **Katherine Bunker** kate.bunker@usdoj.gov
- **Robert Paul Goe (TR)** bktrustee@goeforlaw.com, kwareh@goeforlaw.com;bkadmin@goeforlaw.com;C187@ecfcbis.com;kmurphy@goeforlaw.com;rgoe@goeforlaw.com
- **David C Nealy** david.nealy@limnexus.com, mimi.cho@limnexus.com
- **Leonard Pena** lpena@penalaw.com, penasomaecf@gmail.com;penalr72746@notify.bestcase.com
- **Brett Ramsaur** brett@ramsaurlaw.com, alecia@ramsaurlaw.com;paralegal@ramsaurlaw.com
- **Andrew Edward Smyth** office@smythlo.com
- **James E Till** james.till@till-lawgroup.com, martha.araki@till-lawgroup.com;myrtle.john@till-lawgroup.com;sachie.fritz@till-lawgroup.com
- **United States Trustee (SV)** ustpregion16.wh.ecf@usdoj.gov

SERVICE LIST

Aaron C. Agness
Weston and Agness LLP
1960 East Grand Ave Suite 400
El Segundo, CA 90245
Email:aagness@westonagnesslaw.com

Leo L. Ashley III
Weston and Agnes LLP
1960 East Grand Ave Suite 400
El Segundo, CA 90245
Email: lashley@westonagnesslaw.com

Brett H. Ramsaur, Bar No. 281566
RAMSAUR LAW OFFICE
3070 Bristol Street, Suite 640
Costa Mesa, California 92626
Email: brett@ramsaurlaw.com
Attorney for Plaintiff Travelers Property Casualty
Company of America

JAMES E. TILL (SBN 200464)
James.Till@LimNexus.com
DAVID NEALY (SBN 282383)
David.Nealy@LimNexus.com
LIMNEXUS LLP
707 Wilshire Boulevard, 46th Floor
Los Angeles, CA 90017

David Morales, Esq.,
THE MORALES LAW FIRM
99 S. Almaden Blvd., Ste. 600
San Jose, CA 95113
E-Mail: Morales@Alum.MIT.edu
Attorneys for Specially-Appearing
Third-Party Defendants Drita Kessler
and DK Art Publishing, Inc.

Label Matrix for local noticing
973-1
Case 1:22-bk-11504-VK
Central District of California
San Fernando Valley
Mon Nov 20 09:49:16 PST 2023

Employment Development Dept
Bankruptcy Group MIC 92E
P. O. Box 826880
Sacramento, CA 94280-0001

Franchise Tax Board
Bankruptcy Section MS: A-340
P. O. Box 2952
Sacramento, CA 95812-2952

Internal Revenue Service
PO Box 7346
Philadelphia, PA 19101-7346

(p)LOS ANGELES COUNTY TREASURER AND TAX COLLE
ATTN BANKRUPTCY UNIT
PO BOX 54110
LOS ANGELES CA 90054-0110

LIMNEXUS LLP
c/of Ramsaur Law Office
27075 Cabot Road
Suite 110
Laguna Hills, CA 92653-7014

p)OFFICE OF FINANCE CITY OF LOS ANGELES
200 N SPRING ST RM 101 CITY HALL
LOS ANGELES CA 90012-3224

Pena & Soma, APC
402 South Marengo Ave.,
Suite B
Pasadena, CA 91101-3113

Securities & Exchange Commission
444 South Flower St., Suite 900
Los Angeles, CA 90071-2934

San Fernando Valley Division
21041 Burbank Blvd,
Woodland Hills, CA 91367-6606

American Express National Bank
c/o Becket and Lee LLP
PO Box 3001
Malvern PA 19355-0701

Amex
Correspondence/Bankruptcy
PO Box 981540
El Paso, TX 79998-1540

Amex
PO Box 981537
El Paso, TX 79998-1537

Barry Peele
9665 Wiltshire Blvd.
Beverly Hills, CA 90212-2340

Conduent/ACS
181 Montour Run Rd
Coraopolis, PA 15108-9408

Conduent/ACS
Conduet shut down operation
9/1 19 loans transferred to other servic
Utica, NY 13501

FRANCHISE TAX BOARD
BANKRUPTCY SECTION MS A340
PO BOX 2952
SACRAMENTO CA 95812-2952

Fidelity and Guaranty Insurance Underwri
Attn: Melissa DeKoven its authorized age
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833-3502

Franklin R Fraley Jr
Fraley & Associates, 680 E Colorado Blvd
Pasadena, CA 91101-6143

(p)JPMORGAN CHASE BANK N A
BANKRUPTCY MAIL INTAKE TEAM
700 KANSAS LANE FLOOR 01
MONROE LA 71203-4774

Jpmcb Card
PO Box 30281
Salt Lake City, UT 84130-0281

Murphy Pearson Bradley & Feeney
580 California Street Suite 1100
San Francisco, CA 94104-1072

Parker Mills LLP
800 W 6th St #500
Los Angeles, CA 90017-2708

Pinnacle Credit Services, LLC
Resurgent Capital Services
PO Box 10587
Greenville, SC 29603-0587

Preston H. Lim
Lim Law Group, P.C.
1504 W. Artesia Sq., Suite B
Gardena, CA 90248-4763

Robert G. Klein
8383 Wilshire Blvd. Suite 935
Beverly Hills, CA 90211-2427

S. Nathan Park
S. NATHAN PARK PLLC
1919 M Street NW, Suite 410
Washington, DC 20036-3525

Wall Spencer Callas & Krueger, ALC
32351 Coast Highway
Laguna Beach, CA 92651-6703

Tina S. Schuchman
1875 Century Park E, Los Angeles
Los Angeles, CA 90067-2253

Travelers Property Casualty Co. of Am.
ONE TOWER SQUARE
Hartford, CT 06183-0001

Travelers Property Casualty Company
of America
Attn Sangyoon Nathan Park Esq
1919 M Street NW Ste 410
Washington, DC 20036-3525

US District Court
PO Box 16448
Saint Paul MN 55116-0448

United States Trustee (SV)
915 Wilshire Blvd, Suite 1850
Los Angeles, CA 90017-3560

Andrew Edward Smyth
Smyth Law Office
4929 Wilshire Blvd Ste 690
Los Angeles, CA 90010-3820

Drita Pasha Kessler
6909 Texhoma Ave.
Van Nuys, CA 91406-4347

Leonard Pena
Pena & Soma, Apc
402 South Marengo Ave.
Suite B
Pasadena, CA 91101-3113

Michael Jay Berger
7454 Wilshire Blvd 6th Fl
Beverly Hills, CA 90212-2980

Robert Paul Goe (TR)
Goe Forsythe & Hodges LLP
17701 Cowan
Building D
Ste 210
Irvine, CA 92614-6840

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified
by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g) (4).

LA County Tax Collector
Bankruptcy Unit
P.O. Box 54110
Los Angeles, CA 90051-0110

Los Angeles City Clerk
P.O. Box 53200
Los Angeles, CA 90053-0200

Jpmcb Card
PO Box 15369
Wilmington, DE 19850-5369

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)Courtesy NEF

(u)Travelers Property Casualty Company of Ame

(d)Franchise Tax Board Bankruptcy Section
MS: A-340 P. O. Box 2952
Sacramento, CA 95812-2952

(d)Internal Revenue Service
P.O. Box 7346
Philadelphia, PA 19101-7346

(u)David P Morales

End of Label Matrix
Mailable recipients 37
Bypassed recipients 5
Total 42